

Message Text

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ACTION EB-08

INFO OCT-01 EA-07 ISO-00 FEA-01 ERDA-05 AID-05 CEA-01
CIAE-00 COME-00 DODE-00 FPC-01 H-01 INR-07 INT-05
L-03 NSAE-00 NSC-05 OMB-01 PM-04 USIA-06 OES-06
SP-02 SS-15 STR-04 TRSE-00 ACDA-07 IGA-02 /097 W
-----191727Z 129829 /41

R 190105Z MAR 77
FM AMEMBASSY JAKARTA
TO SECSTATE WASHDC 9907

C O N F I D E N T I A L JAKARTA 03500

E.O. 11652: GDS
TAGS: ENRG, EFIN, ID
SUBJECT: IRS AND INDONESIAN PRODUCTION-SHARING CONTRACTS

1. GOI HAS AUTHORIZED ITS LEGAL ADVISORS, ROGERS AND WELLS, TO MAKE AVAILABLE COPY OF "DRAFT" TAX DECREE TO IRS FOR PURPOSES OF DISCUSSION. CLEARANCE WAS TELEXED EARLIER THIS WEEK BY PERTAMINA FOLLOWING APPROVAL OF DRAFT LANGUAGE BY MINFIN WARDHANA. WHETHER OR NOT DRAFT IS RELEASED DIRECTLY TO IRS BY RW OR VIA PRODUCTION-SHARING CONTRACTORS IS APPARENTLY UP TO RW'S LAWYER TO DECIDE. IN ANY EVENT, DECREE WILL NOT BE "FINALIZED", I.E. SIGNED AND PROMULGATED, BY DEPARTMENT OF FINANCE UNTIL AFTER IRS HAS HAD CHANCE TO COMMENT ON IT.

2. AS EMBASSY HAS PREVIOUSLY NOTED, NEW DECREE REPRESENTS MAJOR EFFORT BY GOI TO "FORMALIZE" SYSTEM FOR COLLECTION OF TAXES OWED BY FOREIGN COMPANIES UNDER TERMS OF PRODUCTION-SHARING. PERTAMINA SOURCES REFER TO DECREE AS EXPLANATION OF GOI "TAX PHILOSOPHY" RELATING TO PRODUCTION-SHARING CONTRACTS. DECREE REPLACES FORMER SYSTEM WHEREBY PERTAMINA ITSELF "DISCHARGED" GOI TAX OBLIGATION ON BEHALF OF COMPANIES WHO SIMPLY PAID ADDITIONAL AMOUNT OF OIL EQUAL TO GOI TAX OR "LEVY", AS IT WAS ACTUALLY REFERRED TO IN PREVIOUS DUTCH-ERA TAXATION DECREE. DEPARTMENT IS CORRECT IN ITS
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ASSUMPTION THAT THIS FORMER ARRANGEMENT WAS INTENDED BY PERTAMINA NOT SO MUCH TO MAXIMIZE TAXES AS TO MAXIMIZE INCENTIVES FOR OPERATION IN INDONESIA. CONCERN OF GEN IBNU SUTOWO, DEVELOPER OF PRODUCTION-SHARING MODEL, WAS THAT COMPANIES' INVOLVEMENT WITH TAX COLLECTOR, USUALLY SOURCE OF MANY DIFFICULTIES FOR FOREIGN INVESTOR IN LDC ENVIRONMENTS, BE MINIMIZED; BY LETTING PERTAMINA

HANDLE COMPANY'S TAX RESPONSIBILITY WITH GOI DIRECTLY, CONTRACTOR WAS FREE TO CONCENTRATE ON TECHNICAL AND OPERATIONAL MATTERS RELATED TO DEVELOPMENT NEW OIL RESOURCES.

3. COMMENT: IN ATTEMPT BETTER UNDERSTAND GOI/PERTAMINA POSITION RE CONSOLIDATION, EMBASSY INQUIRED IF ILLUSTRATION OF HOW THIS MIGHT AFFECT INDONESIA COULD BE PROVIDED. ACCORDING TO INFORMAL PERTAMINA CALCULATION, GOI BELIEVES THEY COULD SUFFER UP TO \$1.00 LOSS PER BARREL ON ITS "TAKE" FROM COMPANIES BECAUSE OF CONSOLIDATION. THIS APPARENTLY RESULTS FROM FACT THAT COMPANIES WOULD BE ABLE RECOVER ADDITIONAL \$180 MILLION IN COSTS IF AREAS WERE CONSOLIDATED. WE HAVE NOT BEEN ABLE VERIFY THIS WITH COMPANIES OR CONFIRM ARITHMETIC OURSELVES. END COMMENT.
NEWSOM

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Message Attributes

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Control Number: n/a
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Sent Date: 19-Mar-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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Disposition Remarks:
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Executive Order: GS
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